

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 206.21, the Department of Agriculture and Land Stewardship hereby gives Notice of Intended Action to amend Chapter 45, “Pesticides,” Iowa Administrative Code.

The amendment requires that the efficacy and safety data on a nonchemical pest control device be submitted to the Department prior to sale or lease. The Department may examine or test the devices.

Any interested persons may make written suggestions or comments on the proposed amendment on or before 4:30 p.m. on March 2, 2010. Written comments should be addressed to Margaret Thomson, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319. Comments may also be submitted by fax to (515)281-6236 or by E-mail to Margaret.Thomson@IowaAgriculture.gov.

A public hearing will be held in the Second Floor Conference Room of the Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa, at 2 p.m. on March 2, 2010.

The proposed amendment is subject to the Department’s general waiver provisions found at 21—Chapter 8.

This amendment is intended to implement Iowa Code section 206.16.

The following amendment is proposed.

Amend rule 21—45.19(206) as follows:

21—45.19(206) Enforcement.

45.19(1) Collection of samples. Samples of pesticides and devices shall be collected by an official investigator or by any employee of the state who has been duly designated by the secretary, by entry into any place during reasonable business hours.

45.19(2) Nonchemical pest control devices. Manufacturers or their representatives intending to sell or lease a nonchemical pest control device in the state shall submit efficacy and safety data to the department of agriculture and land stewardship prior to the sale or lease. This requirement may include the furnishing of specimen devices or samples. The department or the department’s designee shall examine or test the device as may be necessary to ascertain the reliability, efficacy and safety data of the device and actual or potential adverse effects of the device upon human health and safety. The costs of conducting the examination or test shall be borne by the manufacturer or the manufacturer’s representative.

45.19(2) 45.19(3) Notice of apparent violation. If from an examination or analysis a pesticide appears to be in noncompliance with the pesticide Act, a written stop sale, use or removal notice will be initiated by the secretary or the secretary’s duly appointed authority. The notice shall state the manner in which the product fails to meet the requirements of the Act and the regulations and that the recipient shall be given an opportunity to offer such written explanation as the recipient may desire.

45.19(3) 45.19(4) Any person may obtain an opportunity to present relevant arguments or comments by submitting a written request within 20 days from the date of mailing of the notice.

45.19(4) 45.19(5) The secretary may suspend an applicator’s license, permit or certification pending inquiry and, after opportunity for a hearing, may deny, suspend, revoke or modify any provision of any license, permit or certification issued under this the Act, upon receipt of information from the

environmental protection agency that the applicator has been convicted under the criminal provision of Section 14(b) of FIFRA or has been assessed a civil penalty under Section 14(a) of FIFRA.